

**LaROWE, GERLACH & ROY, S.C.**  
**ATTORNEYS AT LAW**

110 E Main Street  
Post Office Box 231  
Reedsburg, Wisconsin 53959-0231  
Telephone (608) 524-8231  
Facsimile (608) 524-4766

Myron E. LaRowe  
James P. Gerlach  
Harry Sauthoff, Jr.  
John M. Gerlach  
Joseph J. Hasler  
Katherine E. Campbell  
David A. Geier

Steven A. Roy  
Derek J. Horkan  
Erin Flood Brennan  
Patrick J. Taggart II  
Jennifer Deuster-Loesch  
Amanda L. Wieckowicz

OF COUNSEL  
Eric J. Pollex  
Pollex Law Office  
313 Main Street  
Post Office Box 255  
Friendship, Wisconsin 53934  
Telephone: (608) 339-3341

April 1, 2004

via Federal Express

Jeff S. Jordan  
Supervisory Attorney  
Federal Elections Commission  
999 E Street NW  
Washington, DC 20463

RE: Dale Schultz for Congress  
FEC Complaint, MUR 5426

Dear Mr. Jordan:

I am writing in my capacity as the Treasurer of the Dale Schultz for Congress Committee. I am writing in response to your letter dated March 12, 2004 and postmarked March 15, 2004.

We have prepared an affidavit for signature by the candidate, State Senator Dale W. Schultz. Because he is traveling, he will send that to you directly under separate cover.

Before responding to the specific allegations in the Complaint by the Democratic Party of Wisconsin, I want to provide some general background. Dale Schultz was first elected to the Wisconsin State Assembly in 1984 and was re-elected to two-years terms until he won a special election for the Wisconsin State Senate in 1991. He was elected to a full four-year terms in 1994, 1998 and 2002. Except for one uncontested Assembly race in 1990, he has faced opponents in each of his elections. He now chairs the State Senate Agriculture Committee.

Wisconsin's 33 State Senators are elected for staggered four-year terms. Partisan control of the state legislature has shifted between the Democrats and Republicans several times in the last ten years. State Senate seats are frequently hotly contested. Consequently, virtually all incumbent State Senators of both parties maintain continuing campaign organizations and efforts throughout their four-year terms. State Senators who are contemplating running for re-election never wait until the election year to raise money or get their name in front of constituents.

In short, State Senator Schultz has maintained a state campaign account and campaign committee for 20 years to support his runs for state legislative office. Even though he is only

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near the midway point of his current four-year term, he has been actively doing the kinds of things that most incumbent State Senators of both parties do to keep their names before the voters of their districts. All contributions to his state committee as well as disbursements are recorded and reported to the Wisconsin State Elections Board on state campaign finance reports. Wisconsin, like federal law, prohibits corporate contributions, Wis. Stat. § 11.38(1) and limits the dollar amount that individuals can contribute. For state senators, an individual is limited to contributing \$1,000 over the course of a four-year election cycle. Wis. Stat. § 11.26(2)(b).

In September 2003, State Senator Schultz decided to become a candidate for the Third Congressional District seat and filed a federal registration for his committee. That seat is now held by Ron Kind. First elected in 1996, Representative Kind is now serving his fourth term. State Senator Schultz obviously hopes that he will be elected to Congress, but given the difficulty of unseating an incumbent member of Congress, Mr. Schultz would remain a State Senator if he does not prevail, and in that event, he intends to run for re-election to the State Senate in the next election year.

With that general background, let me turn to the specific items raised in the complaint by the Democratic Party of Wisconsin ("DPW"). I would like to acknowledge at the outset that in the early months following Senator Schultz's decision to run for Congress, some expenses that by habit have been paid by his state committee continued to be paid by that committee even though they more appropriately belonged to the federal campaign effort. In fact, on January 29, 2004, well before the DPW Complaint was filed, I caught some of these errors and corrected them, as explained below.

The DPW Complaint contained a spreadsheet listing items that it contends were federal expenses improperly paid by the State Committee. For convenience, I have reproduced that table and attached it as Exhibit A; and, have added line numbers to make it easier to refer to the specific items. Although the DPW letter notes the dollar amount of state-recorded items after September 25, 2003, the letter appears to question all items on the spreadsheet. Therefore, I address each of them. The following is our comment on these specific items.

**1. 7/12/03, Hynek Printing, \$750.42**

For all of the years that State Senator Schultz has served in the Legislature, he has been invited to numerous community parades throughout his district. He appears at dozens of such events each year regardless of whether it is an election year or not. He provides stickers to hand out to people in the crowd and reprints them when they run out. This item was for the stickers that he hands out at parades; it was done prior to the time he became a federal candidate and was designed to support his State Senate activities.

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**2. Ben Lewis, 7/28/03, Consulting, \$1,000**

Mr. Lewis was a state campaign worker who provided a variety of services to the state campaign committee. Again, this item was incurred before Senator Schultz decided to run for Congress and declared his candidacy, and it supported his state legislative efforts.

**3. U.S. Post Office, 8/20/03, Bulk Mailing Permit**

For approximately 20 years, State Senator Schultz has maintained a bulk mailing permit, first to support his State Assembly activities, and later, his time in the State Senate. The permit had been in place for many years and this was simply a renewal by his State Campaign Committee.

**4. Ben Lewis, 8/25/03, Consulting/Mileage, \$1,347.44**

Same as Item No. 2 above.

**5. Dale Schultz, 9/02/03, Mileage/Cell Phone/Fundraiser Food, \$921.16**

State Senator Schultz was reimbursed for mileage within his State Senate district, cell phone usage and food served at an event that raised funds for his state campaign committee. These expenses were incurred to help raise money for his state committee and not for his federal committee.

**6. John O'Brien, 9/04/03, Postage \$29.02**

**7. 9/04/03, U.S. Post Office, \$7.40**

Lines 6 and 7 reimbursed a state committee volunteer for postage expenses incurred by the state committee. Mr. O'Brien typically enters the names and addresses of state donors into a state campaign donor base and prepares thank you letters for the State Senator to send out. The postage supported contributions to the state campaign committee.

**8. Nova Video, 9/09/03, Advertising, \$225.00**

For a number of years, State Senator Schultz and the local Representative to the Assembly have jointly sponsored a local cable access program "About Town." They receive an acknowledgment of their sponsorship, but it is not advertising to advocate the election of Senator Schultz to Congress. This has been a traditional state campaign committee contribution to the local cable access effort and is done in conjunction with the State Representative to the Assembly

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for that area. (In Wisconsin, each State Senate District is made up of three adjoining Assembly districts).

**9. *Republican Party of Wisconsin, 9/25/03, Polling Data/Voter List, \$15,620.90***

This item reimburses the State Republican Party for services it provided in July 2003 to prepare research specific to State Senator Schultz's State Senate district. Senator Schultz was concerned because his percentage of the vote for his 2002 re-election was about 3.5% lower than when he was re-elected in 1998. As noted at the outset, many State Senate seats in Wisconsin are hotly contested and partisan control of the State Senate has shifted back and forth among the parties fairly frequently in recent years. In connection with his 2002 re-election effort, Senator Schultz had commissioned some polling from a national firm, but was not pleased with the work product or the results. He decided to work with the state party, which of course needed to charge him market rates for their efforts. He commissioned the party to compile demographic statistics and analyze past polling information specific to his State Senate District to help understand why he had lost market share in his most recent re-election and this work product was delivered to him in July 2003, several months before he decided to run for Congress and filed as a candidate. No new polling was done, and none was targeted to a potential run for Congress. Although paid on September 25, the services were rendered several months earlier.

**10. *WRCO, 10/20/03, Advertising, \$360.00***

WRCO is a local radio station that sponsors a booster club. The station is located in State Senator Schultz's hometown, in his State Senate District. For many years, he has paid to help support broadcasts of local high school athletic teams. He receives a brief acknowledgment for his sponsorship but it is not tied to his candidacy for Congress.

**11. *Ben Lewis, 10/24/03, Consulting/Mileage, \$1,010.87***

**15. *11/24/03, Ben Lewis, 11/24/03, Mileage/Stamps/Supplies, \$683.37***

**16. *11/205/03, Ben Lewis, Consulting, \$500.00***

Line Items 11, 15 and 16 are related so I will discuss them together.

By the Fall of 2003, Senator Schultz had declared his candidacy and Mr. Lewis shifted from working on state matters to the Congressional campaign. These items were mistakenly paid from the state committee as a matter of habit. While preparing the FEC report covering the 4<sup>th</sup> Quarter 2003, I noted the absence of payments to Mr. Lewis. By letter dated

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January 29, 2004, I advised the State committee of this mistake. We corrected the mistake by having the Federal committee issue a check to Mr. Lewis with the understanding that he, in turn, would endorse it to the State committee. A copy of that letter is attached as Exhibit B. This was done before the DPW raised any kind of question about these payments.

**12. State Elections Board, 10/27/03, Fine, \$125.00**

State Senator Schultz's State Campaign Committee is required to file periodic expense reports with the Wisconsin State Elections Board. The Committee is required to file both a paper and an electronic report. For one reporting period, one of these reports was mailed on time and the other was sent two days late. The \$125 fine was imposed by the State Elections Board against the State Committee for being late. Although not highlighted in the DPW letter, it is one of the items questioned by the Complaint. It would seem rather obvious that this could not possibly be a federal campaign expense.

**13. Dale Schultz, 11/03/03, Mileage/Cell Phone Expense, \$642.89**

**17. Dale Schultz, 12/01/03, Mileage/Cell Phone, \$870.75**

Upon further review, some of the cell phone usage and some of the mileage should properly have been charged to the federal campaign committee. As a matter of habit, these were traditionally paid by the state campaign. For example, some of the mileage relates to speeches State Senator Schultz gave to interest groups, often in his capacity as Chair of the State Senate Agriculture Committee. Wis. Stat. § 19.56 specifically encourages state public officials "to meet with clubs, conventions, special interest groups, political groups, school groups and other gatherings" to discuss public policy. The dilemma for many office holders is that there is no office budget to cover expenses for getting to such meetings, and other parts of the state Ethics Code makes it difficult for such groups to provide reimbursement, to the extent that such groups have a budget at all for that purpose. Consequently, it is typical for an elected official's state campaign committee to cover costs that are not otherwise covered by their official expense accounts.

In short, some of the mileage claimed fits that category, and some of the cell phone calls relate to state business or state campaign activities. In theory, one could examine each of the individual items and attempt to break them out between state and federal activities, but this far after the fact, it would be difficult to certify with any degree of confidence which calls related to which subject matters, and to certify that no mention of the federal campaign occurred during some of the meetings. However, for simplicity, and out of an abundance of caution, the

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federal campaign will reimburse State Senator Schultz for these two line items, and he, in turn, will refund the prior payments to the state committee.

**14. Dale Schultz, 11/22/03, Pheasants for Fundraiser, \$400.00**

This item reimburses State Senator Schultz for expenses incurred in connection with a state fundraising effort for his state campaign committee. This did not relate to fundraising for the federal campaign committee in any way.

**18. State of Wisconsin, 12/19/03, American Flags, \$270.25**

Local state legislators bought United States flags for returning National Guard troops and handed them out at a non-partisan, non-political recognition of the troops when they returned to Wisconsin. This event was attended by State Senator Schultz, the local Representatives to the Assembly and Congressman Kind. There was no partisanship or politicking by any of the local or national legislators in attendance. Senator Schultz does not have an official State Senate office budget for this type of item and instead ran the expense of the flags through his state committee fund.

The DPW letter notes two other "notable" expenditures which are not referenced on the spreadsheet.

***Other Items***

DPW questions a 12/19/03 payment of \$725.00 to John O'Brien for "replacement of computer equipment for campaign." The computer equipment in question was a printer owned and utilized solely by the State Senator's state campaign effort. The old equipment was utilized and worn out to support State Senator Schultz's state re-election efforts. The state campaign committee replaced the printer and reimbursed Mr. O'Brien for the expense. This printer is not used in any way by the federal committee or in State Senator Schultz's Congressional campaign. The federal campaign committee has made other arrangements for printing all Congressional campaign documents through a media firm and outside vendors. All such expenses are paid by the federal campaign committee.

The last bullet point of the DPW letter questions a 12/30/03 payment of \$1,142.41 to Ben Lewis for "consulting/mileage/phones/camera." This item was addressed in Lines 11; 15 and 16 above. It was a mistake by the State Committee and it was included in the reimbursement

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by the Federal Committee to Mr. Lewis and in turn, the State Committee on January 29, 2004.

### ***Concluding Comments***

In terms of dollars and line items, most of what DPW questions consists of bona fide, legitimate state expenses that were properly paid and reported in accordance with Wis. Stat. Ch. 11. The federal campaign committee acknowledges and apologizes for several mistakes made in the early months as State Senator Schultz and his campaign volunteers were making the transition from candidate for State Senate re-election to challenging an incumbent Member of Congress. As the campaign efforts became more focused and intense, internal audits identify that the state payments to Mr. Lewis were done in error and the Committee took steps, voluntarily and prior to any outside question being raised, to remedy them.

A further review of the expense reimbursements paid to State Senator Schultz by his state campaign committee show that in hindsight, portions of these payments were properly attributable to his state campaign committee but a portion, perhaps all, should have been paid by the federal committee. Based on our audit of these expenses, we have corrected these payments by issuing a check to State Senator Schultz which he will endorse to the state committee.

We regret the fact that Mr. Lewis was initially reimbursed by the wrong campaign committee and that the federal portion of State Senator Schultz's expenses were also paid out of the wrong pocket. The Committee has instituted internal management controls to be sure that all expenses from this point forward are properly characterized and paid out of the correct account. The federal account has also reviewed the expenditures and reimbursed the state committee for the amounts that were mistakenly paid for efforts that should have been considered part of the federal campaign effort.

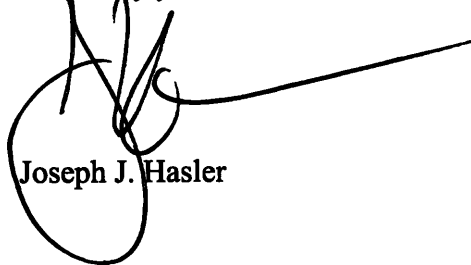
While we acknowledge and regret these past mistakes, we take issue with the DPW's characterization of them as "soft money." Prior to the enactment of BCRA, soft money traditionally meant corporate money donated to state party committees and transferred around to avoid scrutiny. By contrast, all of the funds in State Senator Schultz's state campaign committee came either from individuals or from political action committees who can receive and distribute only individual contributions. See, Wis. Stats. § 11.38(1)(9). The contributions can only be received in amounts that are equal to or less than the amounts under both prior law and the law following enactment of BCRA. Further, they are all itemized and reported to the state election authority, and available for public scrutiny.

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We appreciate the opportunity to present this explanation of the issues raised in the DPW letter. We would welcome a prompt and fair resolution of these matters with the Commission. As I understand it, at this point the Commission is still making an initial inquiry into the DPW Complaint and the Commission has not yet opened an investigation into the matter. We will cooperate fully with you and the Commission and are interested in going through the conciliation process if the matter gets to that stage. In the meantime, we appreciate the opportunity to present this information to you. Please feel free to call if you have any questions or if there is any further information that we can provide as you prepare your analysis and recommendations to the Commission.

Very truly yours,

A handwritten signature in black ink, appearing to be 'J. Hasler', with a long horizontal line extending to the right.

Joseph J. Hasler

JJH/cf

cc: State Senator Dale Schultz  
Katie Kennedy

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EXHIBIT

A

# Friends and Neighbors of Dale Schultz

## Gross Expenditures

SCHEDULE 2-A

IN-KIND		DATE	NAME	ADDRESS	CITY	STATE	ZIP	DESCRIPTION	AMOUNT	ELECTION AMOUNT
1		07/12/03	Hynek Printing	125 N. Congress St.	Richland	WI	53581	Printing	\$750.42	
2		07/28/03	Ben Lewis	31948 Lost Hollow	Richland	WI	53581	Consulting	\$1,000.00	
3		08/20/03	US Post Office	PO Box 998	Hillpoint	WI	53937	Bulk Mailing Permit	\$150.00	
4		08/25/03	Ben Lewis	31948 Lost Hollow	Richland	WI	53581	Consulting/Mileage	\$1,357.44	
5		09/02/03	Dale Schultz	515 N. Central Av.	Richland	WI	53581	Mileage/Cell Phone/Fundraiser Food	\$921.16	
6		09/04/03	John O'Brien	26570 Fiddlers Green	Richland	WI	53581	Postage	\$29.02	
7		09/04/03	US Post Office	213 N. Central Ave.	Richland	WI	53581	Postage	\$7.40	
8		09/09/03	Nova Video	175 E. Mill St.	Richland	WI	53581	Advertising	\$225.00	
9		09/25/03	Republican Party of Wisconsin	PO Box 31	Madison	WI	53701	Polling Data/Voter List	\$15,620.90	
10		10/20/03	WRCO	2111 Bohman Dr.	Richland	WI	53581	Advertising	\$360.00	
11		10/24/03	Ben Lewis	31948 Lost Hollow	Richland	WI	53581	Consulting/Mileage	\$1,010.87	
12		10/27/03	State Elections Board	132 E. Wilson St.	Madison	WI	53702	Fine	\$125.00	
13		11/03/03	Dale Schultz	515 N. Central Av.	Richland	WI	53581	Mileage and Cell Phone Expense	\$642.89	
14		11/22/03	Dale Schultz	515 N. Central Av.	Richland	WI	53581	Pheasants for Fundraiser	\$400.00	
15		11/24/03	Ben Lewis	31948 Lost Hollow	Richland	WI	53581	Mileage/Stamps/Supplies	\$638.37	
16		11/25/03	Ben Lewis	31948 Lost Hollow	Richland	WI	53581	Consulting	\$500.00	
17		12/01/03	Dale Schultz	515 N. Central Av.	Richland	WI	53581	Mileage/Cell phone	\$870.75	
18		12/19/03	State of Wisconsin	PO Box 7882	Madison	WI	53713	American Flags	\$270.25	

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OF COUNSEL  
Eric J. Pollex  
Pollex Law Office  
313 Main Street  
Post Office Box 255  
Friendship, Wisconsin 53934  
Telephone: (608) 339-3341

January 29, 2004

Dennis Hamilton, Treasurer  
Friends and Neighbors of Dale Schultz  
Post Office Box 392  
Richland Center, Wisconsin 53581

RE: Benjamin Lewis

Dear Dennis:

I am writing in my capacity as treasurer of Dale's federal campaign committee.

In compiling the federal report for the months of October, November and December, 2003, it came to my attention that Benjamin Lewis's fees and costs in the amount of \$3,291.65 had erroneously been paid by Dale's state committee. In order to rectify that mistake, we will do the following: The federal committee will issue a check to Benjamin in the amount of \$3,291.65 which he, in turn, will endorse over to the state committee.

Please contact me if you have questions regarding this matter.

Very truly yours,

  
Joseph J. Hasler

JJH/cf

cc: Dale Schultz  
Benjamin Lewis  
Katie Kennedy  
Jeff Filter ✓

**EXHIBIT**

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